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09/674,443	10/27/2000	Sherif Safwat	2146	8623

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EXAMINER

ROWAN, KURT C

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/674,443
Filing Date: October 27, 2000
Appellant(s): SAFWAT, SHERIF

Donald Schreiber
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 9, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-3, 12-15, 24, 26, and 40-41 stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

Appellant's brief includes a statement that claims 4-11, 16, 25, 42-47 stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

Appellant's brief includes a statement that claims 22-24, and 37-39 stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

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Appellant's brief includes a statement that claims 17-22 and 27-36 stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

4715142	RICHARD	12/1987
4970808	MASSIE	11/1990
5697182	RODGERS	12/1997

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3, 12-15, 24, 26, and 40-41 are rejected under 35 U.S.C. 103 as being unpatentable over Richard. This rejection is set forth in a prior Office Action, mailed on July 1, 2003 and March 8, 2004.

Claims 4-11, 16, 25, and 42-47 are rejected under 35 U.S.C. 103 as being obvious over Richard in view of Barfield. This rejection is set forth in a prior Office Action, mailed on July 1, 2003 and March 8, 2004.

Claims 22-24, and 37-39 are rejected under 35 U.S.C. 103 as being obvious over Massie. This rejection is set forth in a prior Office Action, mailed on July 1, 2003 and March 8, 2004.

Claims 17-22 and 27-36 are rejected under 35 U.S.C. 103 as being obvious over Rodgers. This rejection is set forth in a prior Office Action, mailed on July 1, 2003 and March 8, 2004.

(11) Response to Argument

Applicant argues that Richard does not disclose an electret. This is correct. However, Richard shows a biosimulating fish hook having a shank, an eye and a bend with a point terminating on the shank. Richard shows a self contained bioelectric simulating means having an anodic segment and a cathodic segment with a plastic band as shown in Fig. 2b. The definition of an electret is a solid dielectric that exhibits persistent dielectric polarization. In Richard with the anodic segment and the cathodic segment being separated by dielectric 7, a persistent dielectric polarization occurs since an electric field is set up between the anodic segment and cathodic segment with the plastic in-between.

Hence it would have been obvious to provide Richard with a known electret since merely replacing one biosimulator for another would have been obvious since the function is the same. In regard to the Massie patent which shows all of the limitations of Claim 22 with the exception of the electret. Massie is not cited to show an electret, but using an electric field to attract fish. In Rodgers, applicant argues that the electrodes do not protrude from the body and that the examiner stated that they do protrude. The specification states that they do not protrude, but clearly they are exposed to water. The

sections such as probes 29, 31 connected by leads 33, 35 has an electric field between them as stated in column 2, lines 39-58 are also exposed to water and appear

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to protrude from the body to form an electric field to attract fish. As to the prior art suggesting the modifications, See In re McLaughlin, 170 USPQ 209 which states the test is not only what the reference suggest but rather the combination of the disclosures with the knowledge that was readily available to one of ordinary skill in the art at the time of the invention. Also, it is not seen that the proposed modification of Richard would cause Richard to be inoperative for its intended purpose which is catching fish. The fish hook of Richard will still corrode and break after exposure to water since the addition of an electret would not preclude the use of two dissimilar metals on other parts of the hook shank to have the same effect of corroding rapidly in water. For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Kurt Rowan
Primary Examiner
Art Unit 3643



KR
November 15, 2004

Conferees
DA

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